

No. 11005

United States
Circuit Court of Appeals
For the Ninth Circuit.

CITY OF TUCSON, a Municipal Corporation,
Appellant,

vs.

THE TUCSON GAS, ELECTRIC LIGHT AND
POWER COMPANY, a corporation,
Appellee.

SUPPLEMENTAL
Transcript of Record

Upon Appeal from the District Court of the United States
for the District of Arizona

FILED

AUG 14 1945

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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ATTORNEYS OF RECORD

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Tucson, Arizona.

Attorney for Appellant.

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410 Valley National Building,
Tucson, Arizona.

Attorneys for Appellee. [3*]

*Page numbering appearing at foot of page of original certified Transcript of Record.

In the Superior Court of the State of Arizona
In and for the County of Pima

No. 24185

CITY OF TUCSON, a Municipal Corporation,
Plaintiff,

vs.

THE TUCSON GAS, ELECTRIC LIGHT AND
POWER COMPANY, a corporation,
Defendant.

COMPLAINT

[Endorsed]: Filed Jan. 12, 1944. Belle D.
Hall, Clerk, Grayce I. Gibson, deputy

[Endorsed]: Filed Feb. 2, 1944. Edward W.
Scruggs, Clerk, United States District Court for
the District of Arizona. By Hugh M. Caldwell,
Deputy Clerk. [4]

[Title of Superior Court and Cause.]

SUMMONS

[Endorsed]: Filed Jan. 17, 1944. Belle D.
Hall, Clerk, Grayce I. Gibson, deputy.

[Endorsed]: Filed Feb. 2, 1944. Edward W.
Scruggs, Clerk, United States District Court for
the District of Arizona. By Hugh M. Caldwell,
Deputy Clerk. [5]

[Title of Superior Court and Cause.]

NOTICE

[Endorsed]: Filed Jan. 29, 1944. Belle D. Hall, Clerk, Eva L. Cloud, deputy.

[Endorsed]: Filed Feb. 2, 1944. Edward W. Scruggs, Clerk, United States District Court for the District of Arizona. By Hugh M. Caldwell, Deputy Clerk. [6]

[Title of Superior Court and Cause.]

PETITION FOR REMOVAL TO THE DISTRICT COURT OF THE UNITED STATES.

[Endorsed]: Filed Jan. 31, 1944. Belle D. Hall, Clerk, Grayce I. Gibson, deputy.

[Endorsed]: Filed Feb. 2, 1944. Edward W. Scruggs, Clerk, United States District Court for the District of Arizona. By Hugh M. Caldwell, Deputy Clerk. [7]

[Title of Superior Court and Cause.]

BOND FOR REMOVAL TO THE DISTRICT COURT OF THE UNITED STATES.

[Endorsed]: Filed Jan. 31, 1944. Belle D. Hall, Clerk.

[Endorsed]: Filed Feb. 2, 1944. Edward W. Scruggs, Clerk, United States District Court for the District of Arizona. By Hugh M. Caldwell, Deputy Clerk. [8]

[Title of Superior Court and Cause.]

ORDER

[Endorsed]: Filed Jan. 31, 1944, at 10:14 A. M. Belle D. Hall, Clerk.

[Endorsed]: Filed Feb. 2, 1944. Edward W. Scruggs, Clerk, United States District Court for the District of Arizona. By Hugh M. Caldwell, Deputy Clerk. [9]

[Title of Superior Court and Cause.]

MOTION OF DEFENDANT TO DISMISS

[Endorsed]: Filed Jan. 31, 1944. Belle D. Hall, Clerk, Grayce I. Gibson, deputy.

[Endorsed]: Filed Feb. 2, 1944. Edward W. Scruggs, clerk, United States District Court for the District of Arizona. By Hugh M. Caldwell, Deputy Clerk. [10]

[Title of Superior Court and Cause.]

CERTIFICATE OF RECORD TO THE
UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF ARIZONA, TUCSON,
ARIZONA.

State of Arizona,
County of Pima—ss.

I, Belle D. Hall, Clerk of the Superior Court of the state of Arizona, in and for the county of Pima,

do hereby certify the above and foregoing to be a full, true and correct copy of the record, and the whole thereof in the above-entitled suit, heretofore pending in said Superior court, being a suit numbered 24185, where in the City of Tucson is plaintiff, and The Tucson Gas, Electric Light and Power Company, a corporation, is defendant, said record consisting of the following:

1. Complaint, filed January 12, 1944;
2. Summons, and return thereon, filed January 17, 1944;
3. Notice, with copy of Petition for Removal to the District Court and Bond for Removal to the District Court attached, filed January 29, 1944;
4. Demand for Jury, filed January 31, 1944;
5. Motion of Defendant to Dismiss, filed January 31, 1944;
6. Petition for Removal to the District Court of the United States, with copy of notice and Bond for Removal to the District Court attached, filed January 31, 1944;
7. Bond for Removal to the District Court of the United States, filed January 31, 1944;
8. Certified copy of the Minute Entries in this case;
9. Order of Removal, filed January 31, 1944.

In Testimony Whereof, I have hereunto set my

hand and seal of said Superior Court, this 1st day of February, 1944.

[Seal] BELLE D. HALL

Clerk of the Superior Court of the State of Arizona, in and for the county of Pima. [11]

[Endorsed]: Filed Feb. 2, 1944. Edward W. Scruggs, Clerk, United States District Court for the District of Arizona. By Hugh M. Caldwell, Deputy Clerk. [12]

In the United States District Court
For the District of Arizona

Civil—212—Tucson

CITY OF TUCSON, a Municipal Corporation,
Plaintiff,

vs.

THE TUCSON GAS, ELECTRIC LIGHT AND
POWER COMPANY, a corporation,
Defendant.

DOCKET ENTRIES

Date	Filings-Proceedings
1944	

1 Feb 2	File record on removal from Pima County Superior Court: (Complaint (Summons ret'd by Sheriff served (Notice of Petition for Removal (Petition for removal to U. S. Dist. Court.
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(Copy of bond on removal.

(Plaintiff's demand for jury trial

(Motion of defendant to dismiss

(Petition for removal to U. S. Dist.
Court.

(Notice of petition for removal

(Copy of bond for removal

(Copy of bond for removal

(Minutes

(Certificate of clerk

2 Feb 2 File def't's notice of removal. [13]

[Title of District Court and Cause.]

STIPULATION AS TO
SUPPLEMENTAL RECORD

It appearing that there have been erroneously omitted certain parts of the record of this action that are material on appeal, it is hereby stipulated by counsel for appellant and counsel for appellee that the clerk of the above entitled court may certify to the clerk of the Circuit Court of Appeals for the 9th circuit, the following additional portions of said record for printing as a supplement to the Transcript of Record on appeal:

(1) Filing Endorsements of the Clerk of the Superior Court on the Complaint, Summons, Notice of Petition for Removal, Petition for Removal, Bond on Removal, Order of Removal, Motion to Dismiss.

(2) Certificate of Clerk of Said Superior Court

to the Transcript of Record in This Cause Filed in the Above Court.

(3) All Docket Entries of February 2, 1944, in the Above Court.

(4) This Stipulation.

THOS. J. ELLIOTT

Attorney for Plaintiff-

Appellant

DARNELL & ROBERTSON

By GEORGE R. DARNELL

Attorneys for Defendant-

Appellee [14]

[Endorsed]: Filed Jul. 9, 1945. Edward W. Scruggs, Clerk, United States District Court for the District of Arizona. By Shirley R. Miller, Deputy Clerk. [15]

In the United States District Court

For the District of Arizona

CLERK'S CERTIFICATE TO SUPPLEMENTAL TRANSCRIPT OF RECORD

United States of America,
District of Arizona—ss.

I, Edward W. Scruggs, Clerk of the United States District Court for the District of Arizona, do hereby certify that I am the custodian of the records, papers and files of the said Court, including the records, papers and files in the case of City of Tucson, a Municipal Corporation, Plaintiff, versus The Tucson Gas, Electric Light and Power

Company, a corporation, Defendant, numbered Civil-212-Tucson, on the docket of said Court.

I further certify that the attached pages, numbered 1 to 15, inclusive, contain a full, true and correct transcript of the proceedings of said cause and all the papers filed therein, together with the endorsements of filing thereon, called for and designated in the Stipulation As To Supplemental Record filed in said cause and made a part of the supplemental transcript attached hereto, as the same appear from the originals of record and on file in my office as such Clerk, in the City of Tucson, State and District aforesaid.

I further certify that the Clerk's fee for preparing and certifying to this said supplemental transcript of record amounts to the sum of \$3.40 and that said sum has been paid to me by counsel for the appellant.

Witness my hand and the Seal of the said Court this 10th day of July, 1945.

[Seal]

EDWARD W. SCRUGGS,

Clerk

By JEAN E. MICHAEL

Chief Deputy Clerk. [16]

[Endorsed]: No. 11005. United States Circuit Court of Appeals for the Ninth Circuit. City of Tucson, a Municipal Corporation, Appellant, vs. The Tucson Gas, Electric Light and Power Company, a corporation, Appellee. Supplemental Transcript of Record. Upon Appeal from the District Court of the United States for the District of Arizona.

Filed July 13, 1945.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.